

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
Fairclark Cable TV, Inc.,)	
d/b/a Time Warner Cable)	CSR 6001-E
)	
Request for Clarification, Harrison County,)	
West Virginia, WV0373)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: October 21, 2003

Released: October 24, 2003

By the Deputy Chief, Policy Division, Media Bureau:

1. Fairclark Cable TV, Inc., d/b/a Time Warner Cable ("Time Warner") has filed with the Commission a Request for Clarification of the Media Bureau's Memorandum Opinion and Order ("Order") that granted Time Warner's Petition for Special Relief and found that Time Warner's cable system serving the unincorporated portions of Harrison County, West Virginia ("franchise area") is subject to effective competition.¹ Time Warner seeks clarification that the Order revoked the certification of the Public Service Commission of West Virginia ("PSC") to regulate basic cable service rates in the franchise area. Time Warner also asks the Bureau to clarify that its cable system has been subject to effective competition since January 21, 2002.

2. Although Time Warner erroneously claims that its petition sought revocation of the PSC's certification to regulate basic cable service rates in the franchise area, revocation is appropriate in this case.² For a franchising authority to be certified, the cable system in question must not be subject to effective competition as defined by Section 623(l) of the Communications Act.³ Due to the Order's finding that Time Warner is subject to effective competition, the PSC no longer meets this condition and revocation of its certification is proper.

3. As to the date on which the cable system became subject to effective competition, a review of the record indicates that April 21, 2002 is the date of the latest data provided by Time Warner regarding the number of subscribers served by its MVPD competitors in the franchise area.⁴ Based on the foregoing, we conclude that Time Warner has submitted sufficient evidence demonstrating that its cable system has been subject to effective competition since April 21, 2002.

¹ *Fairclark Cable TV, Inc. d/b/a Time Warner Cable*, DA 03-2115 (Media Bureau rel. July 7, 2003).

² Time Warner's initial petition requested revocation of Harrison County's authority to regulate basic cable service rates. Time Warner Petition for Special Relief at 7 ("Time Warner respectfully requests that the Commission . . . revoke the *County's* certification to regulate Time Warner's basic rates.") (emphasis added).

³ 47 U.S.C. § 543(l).

⁴ *See Id.* at Exhibit B (subscriber data for Laurel TV Cable).

4. Accordingly, **IT IS ORDERED** that the request for clarification filed in the captioned proceeding by Fairclark Cable TV, Inc., d/b/a Time Warner Cable **IS GRANTED** to the extent indicated herein and is otherwise **DENIED**.

5. **IT IS FURTHER ORDERED** that the certification of the Public Service Commission of West Virginia to regulate the basic cable service rates of Fairclark Cable TV, Inc., d/b/a Time Warner Cable in unincorporated portions of Harrison County, West Virginia **IS REVOKED**.

6. This action is taken under delegated authority pursuant to Section 0.283 of the Commission's rules.⁵

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert
Deputy Chief, Policy Division, Media Bureau

⁵ 47 C.F.R. § 0.283.